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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/602,534	06/23/2003	Alfred Commins	2863.2.1.3	1743
28049	7590	06/01/2005	EXAMINER	
PATE PIERCE & BAIRD 215 SOUTH STATE STREET, SUITE 550 PARKSIDE TOWER SALT LAKE CITY, UT 84111			SAETHER, FLEMMING	
			ART UNIT	PAPER NUMBER
			3677	

DATE MAILED: 06/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/602,534

Applicant(s)

COMMINS, ALFRED

Examiner

Flemming Saether

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 8-12-04.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 21-40 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-28 and 1-4 of U.S. Patent Nos. 6,390,747 and 6,585,469 respectively. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of the instant application are more broadly are claiming the same subject matter as the parent patents.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 36-40 are rejected under 35 U.S.C. 102(b) as being anticipated by Erikson (US Re.31,713). Erikson discloses an expansion washer (23-32) comprising a base (24) a slide (28) threadedly engaged with the base and defining a clearance hole (not labeled) and including a torsion spring (26) urging relative rotation between the base and slide to increase the axial dimension. The base, slide, and spring defining an exterior envelope with its maximum diametral dimension defined by the maximum width the slide (best see in Fig. 5) and the envelope expanding only in the axial direction.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 21-24, 28-32, 34 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reh (US 5,522,688) in view of Erikson. Reh also discloses an expandable washer including a base (14) and a slide (12) with a clearance hole (16) and a torsion coil spring (20) which is completely contained within the base and slide. There is further disclosed an engagement surface (34) angled in a range to include five and half degrees and a radially extending trigger (54) so that once the trigger is removed the base and slide would be urged apart. Reh does not disclose the engagement surface between the base and slide formed by a thread. As discussed above Erikson also discloses a base, slide and spring but in Erikson the engagement

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surface between the base and slide is formed by a thread. At the time the invention was made, it would have been obvious for one of ordinary skill in the art to replace the engagement surface of Reh with a thread as disclosed in Erickson because the thread would allow the washer greater axial expansion. Whereas the current engagement surface in Reh would limit the axial expansion of the nut by allowing for only one rotation of the slide relative to base, the thread would allow for multiple rotations thus providing an improvement by facilitating greater axial expansion. The inclusion of a dry lubricant would have been recognized to reduce the friction between the threads to ease relative rotation, the stainless steel spring would have been recognized to inhibit corrosion of the spring and lastly, a screw would have been a recognized substitution for the pin in sheer applications.

Claims 25-27 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reh in view of Erikson as applied to claims 21-23 above, and further in view of Simon (US 5,340,258). Modified Reh does not disclose the threaded engagement means provided with a stop. Simon discloses a threaded engagement between a base (11') and a slide (10') which includes a stop (10b) formed as a snap ring. At the time the invention was made, it would have been obvious for one of ordinary skill in the art to provide the threaded engagement of modified Reh with a stop as disclosed in Simon in limit the rotation between the base and slide and prevent their separation.

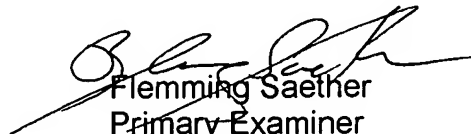
Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Flemming Saether whose telephone number is 571-272-7071. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann can be reached on 571-272-7075. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Flemming Saether
Primary Examiner
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